GOVERNMENT OF INDIA
PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS
LOK SABHA

UNSTARRED QUESTION NO:3680
ANSWERED ON:21.03.2001
CRITERIA FOR SENIORITY IN GOVERNMENT JOB
RAMJI MANJHI

Will the Minister of PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS be pleased to state:

(a) whether the attention of the Government has been drawn to the news-item captioned `Cadre-entry rules to determine seniority SC` appearing in the `Times of India` dated February 20, 2001;

(b) if so, the salient features of the judgement;

(c) whether it is a fact that some ex-cadre employees of Development Deptt. of Delhi Government have beenmerged with general cadre employees of DASS Cadre;

(d) if so, the reasons therefor;

(e) whether there is any proposal to cancel the said merging order keeping in view of the SC orders; and

(f) if so, the details thereof?

Answer

MINISTER OF STATE OF DEPARTMENT OF PERSONNEL AND TRAINING AND DEPARTMENT OF PENSIONS PENSIONERS WELFARE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SMT. VASUN RAJE)

(a)&(b): A Statement is annexed.

(c): No, Sir.

(d)to(f):Does not arise.

ANNEXURE

STATEMENT REFERRED TO IN REPLY TO PARTS (a) and (b) OF LOK SABHA UNSTARRED QUESTION No. 3680 21.3.2001 BY SHRI RAMJEE MANJHI REGARDING CRITERIA FOR SENIORITY IN GOVERNMENT JOB.

(a)&(b) : The news item referred to in part(a) of the Question relates to judgement of the Supreme Court dated 16.2.2001 in the case of Shri P. Mohan Reddy Vs.EAA Charles & Ors.[JT2001(3) SC1].This case relates to fixation of seniority of Deputy Tehsildars in Andhra Pradesh. In this case the Supreme Court has held as follows:-

`Even though an employee cannot claim to have a vested right to have a particular position in any grade, but all the same he has the right of his seniority being determined in accordance with the Rules which remained in force at the time when he was borne in the Cadre. The question of redetermination of the seniority in the cadre on the basis of any amended criteria or Rules would arise only when the amendment in question is given a retrospective effect. If the retrospectivity of the Rule is assailed by any person then the Court would be entitled to examine the same and decide the matter in accordance with the law. If the retrospectivity of the Rule is ultimately struck down, necessarily the question of redrawing of the seniority list under the amended provisions would not arise, but if however, the retrospectivity is upheld by a court then the seniority could be redrawn in accordance with the amended provisions of the employees who are still in the cadre and not those who have already got promotion to some other cadre by that date. Further a particular Rule of seniority having been considered by Court and some directions in relation thereto having been given, that direction has to be followed in the matter of drawing up of the seniority list until and unless a valid Rule by the Rule making authority comes into existence and requires otherwise.

If any Rule or Administrative instruction mandate drawing up of seniority list or determination of inter se seniority within any specified period then the same must be adhered to unless any valid reason is indicated for non-compliance of the same.

In view of the judgement of this Court in K.V.Subba Rao and Ors. V. Government of A.P. case [JT 1988(1) SC 404] seniority of Deputy Tehsildars appointed between the dates 10.4.1980 till September 1992 is required to be determined in accordance with pre-amended Rules which came into existence in September, 1992, and even if, factually such seniority has not been drawn up then the same has to be drawn up in accordance with the criteria indicated in the pre-amended Rule and not according to the amended rules,

which came into existence in September 1992, as has been held by the High Court in the impugnedjudgement. The High Court, therfore, was clearly in error and the said judgement of the High Court isthus set aside. The Tribunal was fully justified in dismissing the O.As. filed by the promotee Deputy Tehsildars. Inthe premises, as aforesaid, the civil appeals by the direct recruits are allowed and the O.As. filed by the promotees before the Administrative Tribunal stand dismissed.`